

September 2017  
Edition

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**Executive Director**  
**William G. Brennan**  
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## New Motor Vehicle Board

# *In-Site*

### MEET OUR NEW ADMINISTRATIVE LAW JUDGES

The New Motor Vehicle Board ("Board") has hired two new Administrative Law Judges: Evelyn M. Matteucci and Dwight V. Nelsen.

#### EVELYN M. MATTEUCCI

Administrative Law Judge Evelyn M. Matteucci has been a civil servant of the State of California for over 25 years with positions at the Receiver's Office of Legal Affairs, the California Attorney General's Office and California's Business, Transportation & Housing Agency (now California State Transportation Agency), among others. She has also held positions with the Federal Government, with a focus on civil litigation. After graduating from the University of California, Berkeley with a degree in Communications and Public Policy, she went on to attend the University of the Pacific, McGeorge School of Law, graduating among the top 5

of her class. She also taught Civil Trial Advocacy, as well as Legal Research and Writing. Judge Matteucci has experience working as a judge through her *pro bono* service. She enjoys gardening and exercise, particularly spin classes, in her spare time and is very excited about joining the Board.

#### DWIGHT V. NELSEN

Administrative Law Judge Dwight V. Nelsen has extensive experience as an Administrative Law Judge with the Office of Administrative Hearings and Appeals within the Department of Health Care Services. He has also held various attorney positions with the Department of Health Services. Before that, Judge Nelsen worked in criminal law for the Office of the State Public Defender, and at an earlier time, the Office of the Attorney General. He also has experience in several County Counsel offices, as well as

private practice. Judge Nelsen graduated from Humboldt State College with a B.A. in Political Science, after which he attended Hastings College of the Law, where he was in the Thurston Scholastic Honor Society and graduated Order of the Coif. He is also a licensed Real Estate Broker. In his spare time, he enjoys international travel with his wife of twenty years, having just recently returned from a trip to St. Petersburg and Moscow.

The Board is looking forward to working with the new judges. Their training has begun and the Board anticipates assigning cases to the new judges once their training is complete.

## JULY 19, 2017 MEETING OF THE BOARD

The Board met on July 19 2017, at the Mission Inn in Riverside. The meeting agenda contained administrative matters, as well as case management matters. The Board was updated on financial condition and budget reports and the upcoming 2018 Industry Roundtable. The Board approved an extension of time for Administrative Law Judge Wong to preside over Mandatory Settlement Conferences. The Board also presented a resolution to Michael J. Flanagan, retiring dealer attorney (see p. 3).

The full agenda and materials can be found on the Board's website at [www.nmnb.ca.gov](http://www.nmnb.ca.gov).



### SOLON C. SOTERAS EMPLOYEE RECOGNITION AWARD

At its July 19 2017, General Meeting, the Board approved Danielle Vare as the recipient of this award for 2017. Danielle was recognized for her ability to manage and complete projects effectively, meticulous work habits and positive attitude in working with and helping her co-workers.



### NATIONAL ASSOCIATION OF MOTOR VEHICLE BOARDS AND COMMISSIONS FALL 2017 WORKSHOP

The National Association of Motor Vehicle Boards and Commissions ("NAMVBC") held its annual workshop on September 6-9 at the Embassy Suites Alexandria Old Town in Alexandria, Virginia.

The NAMVBC had a variety of speakers and topics, including: a lively discussion with industry representatives on Stair Step Incentives, a presentation on the economics of the industry and future sales predictions with Patrick Manzi, Senior Economist at the National Automobile Dealers Association, a panel on autonomous vehicle regulation and deployment including Bernard Soriano from the California Department of Motor Vehicles, an emerging technologies panel moderated by former Executive Director of the Virginia Motor Vehicle Dealer Board, Bruce Gould, and more.

The 2018 workshop will be held in New Orleans, Louisiana. Date TBD.

## AMERICAN ASSOCIATION OF MOTOR VEHICLE ADMINISTRATORS 2017 ANNUAL INTERNATIONAL CONFERENCE

The American Association of Motor Vehicle Administrators (AAMVA) is a nonprofit organization that develops model programs in motor vehicle administration, law enforcement and highway safety. AAMVA's programs encourage uniformity and reciprocity among the states and provinces.

California was fortunate to host AAMVA's International Conference in San Francisco August 21-23, 2017. DMV Director, Jean Shiimoto, was chair of the board for AAMVA and put on an amazing event with informative panels including drug impaired driving and legalization of Marijuana, autonomous vehicles innovation, an industry perspective on the future of dealers and drivers, and case studies in fighting identity fraud and odometer and title fraud, to name a few. There were over 850 attendees from 54 U.S. jurisdictions (including territories) and 8 countries including Belgium, Canada, Mexico, Netherlands, Nigeria, Sweden, Switzerland, and the United Kingdom. In addition, a silent auction was held to support the California Association of Highway Patrolmen Widows and Orphans' Trust fund. AAMVA has established a legacy of leaving communities it visits with a donation to help in charitable works.

The 2018 conference will be August 21-23 in Philadelphia.



### REAL ID UPDATE

Beginning January 2018, California driver license and ID applicants will have the option to apply for a REAL ID driver license or ID card. Californians can use their current driver license or ID to board an airplane until October 1, 2020. To apply for a REAL ID card, customers will need to provide: birth documentation, proof of California Residency and present a social security card, 1099, pay stub or W-2 form with their social security number.



## LAW FIRM AND MANUFACTURER PROCEDURAL TRAINING AVAILABLE

The Board's legal staff is offering one-on-one telephonic training regarding the procedural aspects of the Board to provide guidance to manufacturers as well as law firms that practice before the Board.

Whether you have been practicing for many years before the Board or you occasionally file a protest, the Board wants to keep you and your staff educated on our procedures.

The Board staff have noticed in recent years the quality of work presented before the Board, as well as timely compliance with the Board's rules and requests, have been lacking. The training will address issues noted by both Board legal staff as well as answer any questions your office may have about the Board's procedures.

If you are a legal firm, manufacturer/distributor or in-house counsel and would like to set up one-on-one training for your attorneys and clerical staff, please call Danielle Vare at 916-327-3129 or Robin Parker at 916-323-1536.

Board legal staff are also able to address specific procedural questions as they may arise. If you are in need of assistance regarding Board procedures, please feel free to email Danielle Vare at [dvare@nmvb.ca.gov](mailto:dvare@nmvb.ca.gov) or Robin Parker at [rparke@nmvb.ca.gov](mailto:rparke@nmvb.ca.gov) for assistance.

## MICHAEL J. FLANAGAN RESOLUTION

At its July 19, 2017, Board Meeting in Riverside, the Board presented retiring dealer attorney, Michael J. Flanagan, with a resolution and thanked him for his contributions over the years to the Board, the motor vehicle industry and the people of the State of California. Mr. Flanagan was recognized for his intelligence and integrity. He was respected not only by his clients but by his adversaries as well. He dedicated his time and expertise to matters concerning the motor vehicle industry and helped protect the welfare of the automotive industry in the State of California. The Board thanks him for his contributions.



From L to R: William Brennan, Executive Director; Kathryn E. Doi, Board Vice President; Ramon Alvarez C., Board President; Michael J. Flanagan; Board Members Ryan Brooks, Glenn E. Stevens, Bismarck Obando, Anthony A. Batarse, Jr., and David C. Lizárraga

## GUEST EDITORIAL

BY: MICHAEL J. FLANAGAN

In the late 1960s and early 1970s, in response to a growing concern among franchisees about increased regulation and disciplinary action concerning retail sales and service transactions, the New Car Dealers Policies and Appeals Board was established to afford a forum for oversight of Decisions and Orders of the Department of Motor Vehicles on Accusations brought against licensed dealers by the Department. In 1974, pursuant to the Automotive Franchise Act, the Board was renamed the California New Motor Vehicle Board and its duties were expanded to include the resolution of disputes between dealers and their respective franchisors regarding specified matters arising under their franchise agreements (i.e. new dealer establishments, existing dealer relocations, proposed franchise terminations, refusals to continue existing franchises and proposed franchise modifications, in addition to warranty reimbursement and sales incentive disputes).

While all of these matters had been the subject of some controversy between dealers and their franchisors throughout the various states for some time, California was among the very earliest of states to enact a comprehensive statutory scheme to address the concerns of manufacturers and dealers alike, while being careful to emphasize the protection of consumer interests and the general welfare of the public, as these concerns related to the preservation of economically viable and financially sound retail dealership assets.

Early challenges against the provisions of Vehicle Code sections 3000 et seq. included allegations of Sherman Anti-Trust statutes, the Robinson Patman Act, and claims by franchisors that the new legislation spreading rapidly among the various states was prejudiced against their manufacturer/franchisors, and therefore Unconstitutional under both state and federal Constitutions.

By the late 1970s, the courts had resolved these persistent challenges, determining for the most part that the individual states had compelling state interests in overseeing the efficient and effective resolution of dealer/manufacturer disputes bearing upon the interests of the consuming public and the welfare of the community.

Statutory schemes such as California's Automotive Franchise Act continue to be criticized on a variety of grounds, including the costs of litigation, and consumption of time and resources necessary to thoroughly examine the enormous amount of statistical and marketing data necessary to reach fair, balanced and comprehensive resolution of these disputes.

As one who has been involved for more than forty years in the implementation and execution of the statutes the Board is charged with administering, I continue to believe these laws do their most effective and important work long before any attempt is made by franchisors to establish or relocate dealership outlets, or to terminate, refuse to continue, or modify existing franchises. Why? Because the very existence of the rights to Protest and the requirement that the actions intended be supported or not supported by good cause, as defined in the statutes, precludes what might otherwise be a less carefully considered decision-making process, all to the benefit of franchisors, franchisees and the public they serve.



If you are interested in writing a guest editorial for the New Motor Vehicle Board's Insite publication, please contact Danielle Vare at [dvare@nmvb.ca.gov](mailto:dvare@nmvb.ca.gov) for more information.





## SAVE THE DATE!

The Board will be holding its annual Industry Roundtable event on May 17, 2018 in Sacramento. The Board expects many interesting topics and speakers. Be sure to mark this date on your calendar and look out for more information early next year.



## UPCOMING BOARD MEETINGS

- ⇒ October 2, 2017, Special Meeting, Sacramento, California
- ⇒ November 7, 2017, General Meeting, Sacramento, California
- ⇒ January 2018, General Meeting, Sacramento, California



## NEW PROTEST MAILING LIST

If you would like to receive an e-mail with a PDF of each new protest filed with the Board, please contact Eugene Ohta at (916) 327-7261 or [eohta@nmvb.ca.gov](mailto:eohta@nmvb.ca.gov).



Board Members Glenn E. Stevens (L) and Bismarck Obando

# *In-Site*

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